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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,830	01/05/2004	Kei Yasuda	2003_1926A	4067
52349 7590 03/03/2010 WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503				
EXAMINER MONIKANG, GEORGE C				
ART UNIT 2614		PAPER NUMBER		
NOTIFICATION DATE 03/03/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com
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Office Action Summary

Application No.

10/750,830

Applicant(s)

YASUDA ET AL.

Examiner

GEORGE C. MONIKANG

Art Unit

2614

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/750,830.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendments

1. Applicant's amendments filed 12/23/2009 have been fully considered but they are not persuasive.
2. With regard to applicant's amendment that the change of output of the second installed apparatus is determined by the detection of changing level of sound of the first installed apparatus, the Berstis reference stands. The Berstis reference discloses where the master device 68 can set a condition to reduce the volume of a second installed apparatus (electronic device 66), when a first installed apparatus is detected (electronic device 60). The Berstis system will indirectly monitor the volume of the first installed apparatus (electronic device 60), in order to sufficiently reduce the volume of the second installed apparatus (electronic device 66), since both electronic devices have the capability of producing audio outputs (col. 8, line 65 through col. 9, line 11).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 33-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Berstis et al, US Patent 6650894 B1.

Re Claim 33, Berstis et al discloses a control server for controlling a first installed apparatus and a second installed apparatus, both of the first installed apparatus and the second installed apparatus providing sound output (col. 8, line 65 through col. 9, line 11: electronic device 60 and 66 are both phone/pagers type devices and have the ability to output sound), said control server comprising: a communication unit configured to receive, from the first installed apparatus, a notification signal indicating a detection of changing a level of sound output of the first installed apparatus when the output of the first apparatus changes (col. 8, line 65 through col. 9, line 11: the output of electronic device 60 (first apparatus) is detected by a communication unit within electronic device 66, thus creating change in the output of electronic device 66, wherein the communication unit within electronic device 66 would detect changes in the electronic device 60 such as volume increase and power on/off before changing its output and wherein the communication unit within electronic device 66 can only detect the output of electronic device 60 only when the devices are within a certain distance of each other (i.e. same room)); and an operating unit configured to (i) determine, upon the communication unit receiving the notification signal from the first installed apparatus, whether or not to change an output of the second installed apparatus, according to a distance between the first installed apparatus and the second installed apparatus (col. 7 lines 63 through col. 8, line 2: distances between electronic devices controls their output), and (ii) change the level of sound output of the second installed apparatus

according to the detection of changing the level of sound output of the first installed apparatus, the detection being indicated by the notification signal, when said operating unit determines to change the level of sound output of the second installed apparatus (*col. 8, line 65 through col. 9, line 11: the master device 68 can set a condition to reduce the volume of a second installed apparatus (electronic device 66), when a first installed apparatus is detected (electronic device 60). The Berstis system will indirectly monitor the volume of the first installed apparatus (electronic device 60), in order to sufficiently reduce the volume of the second installed apparatus (electronic device 66), since both electronic devices have the capability of producing audio outputs*).

Re Claim 34, Berstis et al discloses the control server according to claim 33, wherein said control server further includes a location related information acquiring section operable to acquire location related information which indicates a distance between an installed location of the first installed apparatus and an installed location of the second installed apparatus (*col. 7, lines 19-22*) and said operating unit determines whether to change the level of sound output of the second installed apparatus based on the distance between the installed location of the first installed apparatus and the installed location of the second installed apparatus, the distance being indicated by the location related information acquired by the location related information acquiring section (*col. 7, lines 29-39: distances & location between electronic devices controls their output: if electronic device 60 is not within a certain distance/range of electronic device 66, their respective outputs will not affect each other*).

Re Claim 35, Berstis et al discloses the control server according to claim 33, wherein the notification signal indicates the detection of changing the level of sound output of the first installed apparatus, during operation or indicates a detection of changing a state of power of the first installed apparatus (col. 8, line 65 through col. 9, line 11: the master device 68 can set a condition to reduce the volume of a second installed apparatus (electronic device 66), when a first installed apparatus is detected (electronic device 60). The Berstis system will indirectly monitor the volume of the first installed apparatus (electronic device 60), in order to sufficiently reduce the volume of the second installed apparatus (electronic device 66), since both electronic devices have the capability of producing audio outputs), and said control server decreases the level of sound output of the second installed apparatus or turns off the second installed apparatus when the first notification signal indicates that the level of sound output of the first installed apparatus during operation increases or that the first apparatus installed apparatus turns on (col. 8, line 65 through col. 9, line 11: the output of electronic device 60 is determine before comparing with the output of electronic device 66, therefore if the electronic device 60 is turned off, it will not affect the output of electronic device of 66).

Claim 36 has been analyzed and rejected according to Claim 35.

Re Claim 37, Berstis et al discloses the control server according to claim 33, wherein the notification signal indicates the detection of changing the level of sound output of the first installed apparatus, during operation or indicates a detection of changing a state of power of the first installed apparatus (col. 8, line 65 through col. 9, line 11: the master device 68 can set a condition to reduce the volume of a second

installed apparatus (electronic device 66), when a first installed apparatus is detected (electronic device 60). The Berstis system will indirectly monitor the volume of the first installed apparatus (electronic device 60), in order to sufficiently reduce the volume of the second installed apparatus (electronic device 66), since both electronic devices have the capability of producing audio outputs), and said control server decreases the level of sound output of the second installed apparatus or turns off the second installed apparatus when the first notification signal indicates that the level of sound output of the first installed apparatus during operation decreases or that the first apparatus installed apparatus turns off (col. 8, lines 33-50: one conditional setting a user could include is that whenever portable computer device 62 (first device) is detected within a range of mobile phone 64 (second device), the audio of the mobile phone 64 is increased).

Claim 38 has been analyzed and rejected according to claim 37.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/
Examiner, Art Unit 2614

2/24/2010

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2614